



Georgetown Zoning Board of Appeals
Memorial Town Hall ♦ One Library Street ♦ Georgetown, MA 01833

MINUTES OF A PUBLIC HEARING
ZBA FILE File #14-01
Special Permit – Accessory Building Bylaw - Pool
Jeremy J. Derby & Janice
24 Pillsbury Lane, Georgetown, MA 10833
August 6, 2013

Board Members Present:

Paul Shilhan, Chairman
Gina Thibeault, regular member
Sharon Freeman, regular member
Jeff Moore, regular member
Dave Kapnis, regular member – *Recused*

Zoning Clerk: Patty Pitari

Applicant present: Janice Derby

P. Shilhan opened the Hearing at 7:38pm, and read the Rules of Procedure paragraph.

G. Thibeault read legal ad; A Public Hearing will be held for 24 Pillsbury Lane on August 6, 2013, Location: Georgetown Town Hall 3rd Fl. – 7:30pm. An application has been made by Janice & Jeremy Derby of 24 Pillsbury Lane, Georgetown MA, 01833, in the RB district and identified on Assessor's Map 11, Lot 230. The applicant requests a Special Permit under; M.G. L. Chapter 40A, § 9, & the Georgetown Zoning bylaws, Chapter 165 § 9, 10.1, 78 & 79, to place an above ground pool 50% closer to the side lot line than allowed in RB zone. Chapter 165- § 10.1 allows side & rear setback reductions by 50% for accessory structures. *ZBA File #14-01*

Chairman Paul Shilhan introduced the Board members.

D. Kapnis – I will need to recuse myself, as I have a personal financial interest with the applicant.
D. Kapnis left the room.

P. Shilhan – Please tell us what you are proposing.

Applicants Presentation:

Janice McIntosh Derby & Jeremy J. Derby? - We would like to construct a 22 x 10 ft. deck and install an 18 ft. diameter pool on the south side of the property, and it would be 10 ft. from the lot line. There is conservation land behind it, there is a limited area where we can put the deck and the pool, so we chose the most ascetically appealing and the area that makes the most sense. The deck is 20 ft. off the property line. There is conservation land on the northwest side of the house and also on the north side.

Plan - PLAN Marked as Exhibit A

1. Plan of Land Certified by Sidney Field Jr. PLS dated September 16, 2002
(Showing setbacks of 45,232 sq. ft. lot, deck is 22x10 ft., showing pool 10 ft. from side line)

G. Thibeault - Why couldn't you put in off the tip of the triangle of the lot, behind the house?

Derby – There is a fence behind the shed, and a fence on the south side, there are a lot of trees that can't be cut and shed stuff into the pool and could damage the liner, also we wanted to have better access with the deck and pool instead of a ladder climbing into the pool, also I felt more comfortable on this side of property, there is a hill on that side and I thought of kids trying to jump off the hill into the pool, so for safety.

P Shilhan – There is a retaining wall, I wouldn't like it there.

J. Moore – The deck is 20 ft. from the side.

Derby – These are approximate.

J. Moore – Just to be clear the deck must be 20 ft. the deck needs to be conforming, so we are providing relief for the pool only it can be 10 ft. no closer, and the Building Inspector (Jon) will check on the deck setback, he also may require that an as-built be done.

P. Shilhan - With D. Kapnis recused and because we are a 5 member board, you would need 4 votes, it would need to be a unanimous vote and explains to the applicant the options of continuing and withdrawing without prejudice, these are just options.

Derby – I understand.

Audience - None

J. Moore – I want to clarify the voting issue under the Zoning manual, the voting requirements required is related to the number of members established by the statute of the bylaw not how many are actually here, if a member recues themselves, then if one member of a 5 member board does not transform into a 4 member board, so it's a 5 member board, so we need a unanimous vote, if we had an alternate it would be a different story.

J. Moore – There is some screening on the left side of the pool, is that on your property or neighbor's?

Derby – The neighbor's.

P. Shilhan – It's a good spot because you have that arborvitae hedge and they are a little higher than you.

J. Moore – The only concern I would have is to protect the neighbor's view, but if it's there screening that could be maintained, if it were yours we could condition it, but since it's your neighbor's it's not an issue.

Derby – The neighbor's side there is a hill, so they really don't see anything.

Motion – G. Thibeault/S. Freeman to grant a Special permit to Janice McIntosh Derby & Jeremy J. Derby of 24 Pillsbury Lane, Georgetown MA, 01833, in the RB district and identified on Assessor’s Map 11, Lot 23O, under; M.G. L. Chapter 40A, Section 9, and the Georgetown Zoning bylaws, Chapter 165 Sections 9, 10.1, 78 and 79, to place a pool 10ft. from the side lot line, (south side of the property), 50% closer than allowed in the RB zone per Georgetown Zoning Bylaw Chapter 165§10.1 which allows the ZBA to reduce the setback by 50% for accessory buildings/pools, as shown on plot plan drawn by hand and marked as Exhibit A, dated September 16, 2002, and stamped for this application by the Town clerk June 10, 2013.

The Board further found that the application met Zoning Bylaw Chapter 165-79 (a-d);

1. The application is desirable to the public convenience or welfare;
2. Will not overload any public water or other municipal services so as to unduly subject any area to hazards affecting health, safety or the general welfare;
3. Will not impair the integrity or character of the district or adjoining districts;
4. Will not cause an excess of that particular use which could be detrimental to the character of the neighborhood.

Vote:

Sharon – Yes, Jeff – Yes, Gina – Yes, and P. Shilhan – Yes. Motion carried 4-0.

P. Shilhan - The Zoning clerk has 14 days to file a decision any appeal of this decision shall be made pursuant to Massachusetts General Laws Chapter 40A, Section 17, within 20 days after the date the notice of decision was filed with the Town Clerk. An applicant may file this decision before the 20 days but does so at their own risk.

Motion – J. Moore/G. Thibeault to close the hearing 24 Pillsbury Lane, all in favor – yes, no discussion. Motion carried.

Patty Pitari
Zoning Administrative Assistant

Approved October 1, 2013